IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8027 OF 2005

Samiulla Abdul Razak Baig .. Applicant
Versus
State of Maharashtra & Ors. .. Respondents

Ms.Anjali Patil for applicant
Mr.S.S.Tatkare, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 19th December 2005.

P.C.

. This applicant had filed bail application on earlier occasions which was withdrawn with liberty to take out fresh application. This is the fresh application pursuant to the liberty.

2. It is unfortunate that Sessions Case No.1188 of 1994 in which present applicant is arrayed as accused is still pending. Learned Ad hoc sessions Judge would have been well advised in proceeding with this case rather than rejecting the application for bail made by an

applicant who had been in custody for five years preceding the alleged act of absconding. In para 5 of the order learned Judge has observed that the applicant remained absent in court and non bailable warrant was issued against him. Cash bail amount of Rs.10,000/- was forfeited and non bailable warrant came to be re-issued. There was a proclaimation issued. Accused was arrested in C.R.No.138 of 2003, which is registered because of his absence in Court in the subject sessions case. Applicant has thereafter surrendered and is presently in custody.

3. Ms.Anjali Patil states that after the date of surrender, applicant is in custody for more than two years. The case is pending since 1994. Finding of learned Sessions Jduge that applicant is also involved in other case is not true as, according to her, other case was filed in the Court of judicial magistrate first class Dapoli being case No.36 of 2000, where the

present applicant was arrayed as accused No.2. Charge was under section 324 and the learned Judicial Magistrate by a judgement and order dated 6th September 2004 has acquitted present applicant. Applicant was in custody in that case also.

4. Ms.Patil states that applicant is residing at the address mentioned in the cause title and is permanent resident of Mumbai. Applicant is ready and willing to report to Byculla Police station. He will also abide by other conditions imposed by this Court.

5. Mr.Tatkare, A.P.P. does not dispute that the applicant is acquitted in other case and he is in custody for a considerable length of time. Hence, following order:-

i) Applicant shall be enlarged on bail in connection with C.R.No.518 of

1992 registered with Byculla Police Station in the sum of Rs.10,000/- with one surety in the like amount.

ii) Applicant shall report to Byculla Police Station twice a week on every Thursday and Monday between 5.00 p.m. and 7.00 p.m.

iii) Applicant shall not leave jurisdiction of Mumbai without prior permission of sessions court.

iv) Applicant shall not directly or indirectly make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

v) Applicant shall cooperate with the learned Trial Judge for expeditious

disposal of the trial. Any attempt by the applicant to delay the trial may be a ground for cancellation of bail.

vi) Trial Judge shall endeavour to dispose of this case within six months from the date of receipt of this order.

vii) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

viii) Breach of any of the aforesaid conditions would entail cancellation of bail.

viii) Application disposed of.

viii) Parties to act on an

authenticated copy of this order.

(S.C.DHARMADHIKARI, J)